

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 216 of 1988

in

FIRST APPEAL No 1148 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

and

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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SANGAVI OTAMAL LACHHANJI

Versus

MEHTA DHANRAJ HARAKHCHAND,  
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Appearance:

MR PM THAKKAR for Appellant

MR AKSHAY H MEHTA for Respondent No. 1  
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CORAM : MR.JUSTICE B.C.PATEL and

MR.JUSTICE C.K.BUCH

Date of decision: 15/12/98

ORAL JUDGEMENT [ PER : C.K.BUCH, J ]

This Letters Patent Appeal is filed against the order dated 8.8.1985 passed by learned Single Judge in FA No.1148/85 whereby learned Single Judge dismissed the first Appeal at the admission stage which was preferred against the judgment and decree passed by learned City Civil Judge, Ahmedabad in Civil Suit No. 2698/89 a suit filed for settlement of accounts.

Skeletal facts of the suit preferred by the appellant-plaintiff reveal that he was a Commission Agent appointed by the defendant and, therefore, accounts between him and defendant were required to be settled. Plaintiff had pleaded that under an agreement (exh.82 in the trial Court), he was entitled to get 1 1/2% commission out of total sale of the year 1978-79 viz. sum of Rs. 25,000/ and Rs.1200/ per year for use and occupation of the premises of the appellant plaintiff. Learned trial Judge, on the strength of the pleadings of the parties, framed various issues and on appreciation of evidence, dismissed the suit. While recording the findings, learned trial Judge has not accepted any of the material contentions raised by the plaintiff. On the contrary, while deciding issue no. 1(C), has held that the stand taken by the defendant in the written statement is acceptable and the defendant has successfully proved that alleged document of commission is not a genuine document and is either a fraud or a forgery.

Learned Single Judge, on the date on which first appeal came up for hearing for admission, has recorded that the plaintiff has not been able to prove that he has been appointed as a Commission Agent by the defendant as per the agreement dated 21.11.1977. Learned Single Judge also expressed his satisfaction as to the appreciation of evidence by the trial Judge and further expressed his opinion that the document in question does not bear the signature of the defendant as contended by the defendant in the written statement. In short, we are dealing in this letters patent appeal the findings of two courts below which are concurrent.

On going through the judgment of the learned trial Judge, we find that the findings recorded by both the courts below are in accordance with law and based on the proved facts available on record. There is no complicated question of law or any mixed question which can be said to be a question of law and fact involved in the matter. Therefore, we are not inclined to interfere with the concurrent findings of both the courts below. While dismissing the appeal at the admission stage, learned counsel appearing for the appellant was heard at length and learned Single Judge rightly recorded that the

suit was rightly dismissed by the trial Judge and there is no merit in the appeal. We are of the view that there is no error especially an error which can be termed as an error apparent on record or an error of law committed by learned Single Judge and, therefore, this letters patent appeal requires to be dismissed and accordingly, we dismiss this appeal with costs.

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